

October 18, 2005

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**

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Seattle, Washington 98104  
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**REPORT AND DECISION**

SUBJECT: Department of Development and Environmental Services File No. **L04ALT01**  
Proposed Ordinance No. **2005-0386**

**DIAMOND RIDGE ESTATES DIVISION 2**  
Plat Alteration Application

Location: Generally located south and east of the Auburn/Black Diamond Road  
and West of 148<sup>th</sup> Avenue Southeast

Applicant: Cecil Chen  
*represented by* **Stephen Speidel**  
R.W. Thorpe & Associates, Inc.  
705 Second Avenue, Suite 710  
Seattle, Washington 98104  
Telephone: (206) 624-6239  
Facsimile: (206) 625-0930

King County: Department of Development and Environmental Services,  
*represented by* **Kim Claussen**  
900 Oakesdale Avenue Southwest  
Renton, WA 98055  
Telephone: (206) 296-7167  
Facsimile: (206) 296-7051

**SUMMARY OF DECISION/RECOMMENDATIONS:**

Department's Preliminary Recommendation:	Approve with conditions
Department's Final Recommendation:	Approve with revised conditions
Examiner's Decision:	Approve with revised conditions

**EXAMINER PROCEEDINGS:**

Hearing opened:	September 29, 2005
Hearing continued administratively:	September 29, 2005
Hearing closed:	October 6, 2005

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.  
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

**FINDINGS, CONCLUSIONS & DECISION:** Having reviewed the record in this matter, the Examiner now makes and enters the following:

**FINDINGS:**

**1. General Information:**

- |                      |  |
|----------------------|--|
| Owner/Developer:     | Cecil Chen<br>13417 330 <sup>TH</sup> Place SE<br>Auburn, WA 98092   |
| Planning Consultant: | R.W. Thorpe & Associates, Inc.<br>705 Second Avenue, Suite 710<br>Seattle, WA 98104<br>(206) 624-6239            |
| Engineer:            | Dowl Engineers<br>8320 154 <sup>th</sup> Avenue Northeast<br>Redmond, WA 98052<br>(425) 869-2670                 |
| STR:                 | 10, 14, 15 – 21-05   |
| Location:            | Generally located south and east of the Auburn/Black Diamond Road and West of 148 <sup>th</sup> Avenue Southeast |
| Zoning:              | RA-5 & RA-10   |
| Acreage:             | 510 acres  |
| Number of Lots:      | 99 lots (previously recorded under Diamond Ridge Estates Div. 1 & 2)   |
| Sewage Disposal:     | Individual septic systems  |
| Water Supply:        | Covington Water District   |
| Fire District:       | #44 – Lea Hill   |
| School District:     | Auburn #408  |
| Application Date:    | Submitted October 29, 2004   |
2. Except as modified herein, the facts set forth in the DDES reports to the Examiner and the DDES and King County Department of Transportation testimony are found to be correct and are incorporated herein by reference.
3. The subject property consists of the approximately 500-acre subdivision of *Diamond Ridge Estates Divisions I and II* (formerly known in the aggregate as *Soos Creek Golf and Country Club*). It is a 99-lot residential subdivision incorporating a golf course and other open space tracts. The property's main access road entry is Southeast Husky Way, extending west from 148th Avenue Southeast between Southeast Auburn-Black Diamond Road and Southeast Lake Holm Road; additional access easements are provided for emergency use. Water supply is provided by the Covington Water District and sanitary sewage disposal by individual septic systems. The original subdivision action was processed under County file S91P0031 and granted preliminary approval by a Hearing Examiner decision on September 16, 1994. A first alteration to the subdivision was processed under L01ALT02 and granted approval by a Hearing Examiner decision recorded May 29, 2002. The environmental review of the development action

conducted under the State Environmental Policy Act (SEPA) resulted in a Final Environmental Impact Statement (FEIS) in 1993. The previous Examiner decisions and the EIS are incorporated herein by reference.

4. The Applicant proposes a second alteration of the subdivision by relocating the 3.3-acre recreation tract RA-1 from the far northeastern part of the property to a more centralized and residentially accessible location in the west-central portion, north of the terminus of 138th Place Southeast, a cul-de-sac extending north from a side road from Southeast Husky Way. The recreation tract is to be owned and managed by the homeowners association and improved with a sports court, a volleyball court and an open sports field, as well as contain drainage detention facilities, surrounded by a pedestrian path and vegetation buffer. Another element of this second alteration would be to realign the northeasterly emergency access easement which extends from the aforementioned side road off Southeast Husky Way northeasterly to an intersection with 148th Way Southeast in the far northeastern portion of the development.
5. The recreation tract's new location would be on the east side of a private road access easement within the Diamond Ridge Estates development which runs generally north from the aforementioned 138th Place Southeast cul de sac to provide access to offsite properties to the west and northwest of the recreation tract site. Between the access easement and the other properties lies a 50-foot wide development perimeter greenbelt buffer within the Diamond Ridge Estates property line; the geographic relationship of the buffer and the private-road access easement in this area is that running from west to east are the neighboring properties, the 50-foot wide greenbelt buffer, the access easement, and the recreation tract (which as noted will have its own vegetation buffer).
6. Francis King, a neighboring property owner and beneficiary of the aforementioned access easement, testified that the use of the access easement has been or will be infringed upon by the Diamond Ridge Estates developer by fencing and encumbering roughly the eastern half as a vegetative buffer, to which she objects. The Applicant asserts that such use of the access easement was the subject of a legal agreement with the King property ownership and/or some sort of amendment to the original easement language. The legal use of the access easement is not directly related to the alteration at hand and therefore not under the Examiner's jurisdiction. Any dispute of its use must be addressed in some other forum.
7. At the hearing, the Applicant orally requested that an additional condition be added to the alteration. The requested language would condition the alteration approval on the relinquishment of Stormwater Tract SD-D by the County to the development property owners. (Stormwater Tract SD-D lies in the northeastern part of the development adjacent to the to-be-relocated recreation tract RA-1).

#### CONCLUSIONS:

1. The Examiner finds the oral request for the additional condition regarding relinquishment of Stormwater Tract SD-D to be an addition to the alteration request rather than a condition related to the reviewed application and declines to add the requested condition language for the following reasons:
  - A. The legal notice of the alteration request makes no mention of the Tract SD-D relinquishment issue.

- B. The SEPA environmental checklist and the DNS similarly make no mention of the Tract SD-D relinquishment issue as a component of the proposed action.
  - C. The issue has not been reviewed and discussed in the staff report and perhaps through oversight, given the concentration on other issues in the hearing, the Applicant's request was not commented on by county staff in the hearing.
  - D. The 1st alteration to the plat added somewhat similar relinquishment authorization language to the plat notes, but made it subject to King County deeming the relinquishment to be in the public interest. (See Exhibit 7; Sheet 4 of 18, top left under Drainage Tracts) It provides a currently available legal avenue for the Applicant to pursue the relinquishment. If that endeavor is successful, there is no need for the requested condition. If it is unsuccessful because the County finds it not in the public interest to relinquish, the matter could be addressed by a further alteration request, but it must be given notice and full and thorough review by staff and the Examiner rather than just added as an unreviewed afterthought to this alteration.
- 2. The proposed subdivision alteration, as conditioned below, would conform to applicable land use controls.
  - 3. If approved subject to the conditions below, the subdivision alteration will make appropriate provisions for the topical items enumerated within RCW 58.17.110, and will serve the public health, safety and welfare, and the public use and interest.
  - 4. The conditions for plat alteration approval set forth below are reasonable requirements and in the public interest.
  - 5. The dedications of land or easements within and adjacent to the proposed plat alteration, as shown on the proposed plat alteration maps submitted originally on October 29, 2004 and subject to revisions submitted on June 6 and July 11, 2005, or as required for final plat alteration approval, are reasonable and necessary as a direct result of the development of this subdivision, and are proportionate to the impacts of the development.

#### DECISION:

The requested 2nd plat alteration of the Diamond Ridge Estates Division II subdivision, as submitted originally on October 29, 2004 and subject to revisions submitted on June 6 and July 11, 2005, is approved subject to the following conditions of plat alteration approval:

- 1. A revised final plat for Diamond Ridge Estates Division 2, shall be submitted to DDES in accordance with the requirements in KCC 19A for final plats and plat alterations. The final plat alteration shall also be amended, as deemed necessary by DDES, with any required general or specific notes shown on the recorded plat regarding the road improvements, access tract ownership and maintenance, etc. Note: ownership and maintenance of Tract RD-F shall be amended to allow access to the recreation tract and clarify maintenance of this road to the Homeowners Association.
- 2. All persons having an ownership interest in the portions of the subject property being altered shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.

3. The applicant shall process a design change order with DDES to revise the final engineering plans as necessary to implement the conditions of plat alteration.
4. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Preliminary review has identified the following conditions of approval, which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.
  - a. Drainage plans and analysis shall comply with the 1998 King County Surface Water Design Manual. DDES approval of the drainage and roadway plans is required prior to any construction.
  - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
  - c. The King County drainage manual has mapped the proposed development site as a landslide hazard drainage area with special design requirements to mitigate potential impacts to steep slopes. As specified on page 1-18 in the drainage manual, all runoff shall be infiltrated for runoff events up to and including the 100-year storm event. The final drainage plans shall show all applicable design details for the infiltration facilities as specified in the drainage manual including the required soils reports and testing procedures outlined in Chapter 5.
  - d. Water quality facilities shall be provided using the basic water quality protection menu described in the drainage manual.
  - e. As shown on the preliminary drainage plans, the conceptual infiltration ponds are located within a private recreational tract. As required by the King County drainage manual, the final facilities shall be designed with adequate road access for future maintenance. Unless otherwise approved by King County, all runoff control facilities and road access shall be located within drainage easements dedicated to King County. If King County allows the facilities to be privately owned and maintained, the final design plans and recorded plat shall comply with the private maintenance requirements specified in Core Requirement No. 6 in the drainage manual.
- 8.<sup>1</sup> The required vehicular access for the recreation space shall be improved in accordance with applicable design standards in the 1993 King County Road Standards (KCRS) and zoning regulations in KCC 21A.18 for parking requirements. Road easements and/or tract notes shall be recorded as necessary for tracts RA-1 and RDF to designate future use and maintenance of the roadway and recreational facilities.
9. The proposed road easements shown on sheet 20 of the plat alteration shall be revised to conform with all applicable design requirements in the 1993 King County Road Standards, including horizontal alignment, angle of intersection, and sight distance. The applicant shall demonstrate that the previously required emergency access road which intersects 148<sup>th</sup> Way SE has been

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<sup>1</sup> Condition numbers 5-7 were not used in the staff report. For ease of cross-reference between the staff report and this decision, the numbering has been carried over intact and these numbers also not used in the decision.

constructed in conformance with County standards and has been approved by the DDES Fire Engineer. Modification of road design standards may be considered by King County pursuant to the variance procedures in KCRS 1.08.

10. A detailed recreation space plan (i.e., location, area calculations, dimensions, landscape specs, equipment specs, etc.) shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of final plat and/or change order(s). Fencing shall be required on the perimeter of the recreation tract to alleviate potential conflicts between the road/road easement and adjacent golf course.
11. The recreation tract shall be owned and maintained by the Homeowners Association. Notes to this effect shall be shown on the final plat and engineering plans.
12. A performance bond for recreation space improvements shall be posted prior to recording of the plat alteration.
13. The adjacent golf course shall be revised pursuant to the revised CUP – file no. L04CU020 prior to or concurrent with the recording of the alteration.

ORDERED this 18th day of October, 2005.

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Peter T. Donahue, Deputy  
King County Hearing Examiner

TRANSMITTED this 18th day of October, 2005, to the following parties and interested persons of record:

Cecil Chen  
Soos Creek, Inc.  
13417 - 330th Pl. SE  
Auburn WA 98092

KC Exec Horse Council  
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Kirkland WA 98033

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J Paulsen & R Fitzmaurice  
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### NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before November 1, 2005***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before November 8, 2005***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3<sup>rd</sup> Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

### MINUTES OF THE SEPTEMBER 29, 2005, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L04ALT01.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Kim Claussen and Pete Dye, representing the Department; Stephen Speidel representing the Applicant, and Frances King.

The following Exhibits were offered and entered into the record:

- Exhibit No. 1 DDES file no. L04ALT01
- Exhibit No. 2 DDES preliminary report dated September 29, 2005
- Exhibit No. 3 Application for Land Use Permits received October 29, 2004
- Exhibit No. 4 SEPA Checklist received October 29, 2004
- Exhibit No. 5 Determination of Non-significance issued July 22, 2005
- Exhibit No. 6 Affidavit of Posting indication posting date of December 23, 2004; received by DDES on December 27, 2004
- Exhibit No. 7 Recorded plat map for Alteration no. 1, recorded June 17, 2003

- Exhibit No. 8 DDES report for permit no. L04CU020, dated August 19, 2005
- Exhibit No. 9 Assessor's maps (14): SE 10-21-05, SW 10-21-05, NW 15-21-05, NE 15-21-05, NW 14-21-05, SE 15-21-05, SW 15-21-05, SW 11-21-05, NE 16-21-05, SW 14-21-05, SE 16-21-05, NE 21-21-05, NW 21-21-05 and NE 22-21-05
- Exhibit No. 10 Plat map for proposed alteration no. 2 received 10/29/04
- Exhibit No. 11 Technical memorandum from Dowl Engineers re: Tract RA-1 conceptual drainage design, received June 6, 2005
- Exhibit No. 12 Recreation Tract RA-1 Conceptual Drainage Plan, received June 6, 2005
- Exhibit No. 13 Revised alteration no. 2 pages 1 and 20, received July 11, 2005
- Exhibit No. 14 Plat map for proposed alteration no. 2 received 10/29/04 (duplicate of ex. 10)

The following exhibit was entered in to the record on October 6, 2005:

- Exhibit No. 15 Email from Kim Claussen dated 10/06/05 with attached letter signed by Lisa Kittelsby dated September 29, 2005

PTD:ms  
L04ALT01 RPT